



MEMORANDUM
COMMUNITY DEVELOPMENT RESOURCE AGENCY
ENGINEERING AND SURVEYING DIVISION
County of Placer

TO: Honorable Board of Supervisors **DATE:** November 29, 2022
FROM: David W. Kwong, Community Development Resource Agency Director
BY: Benjamin J. Bardakjian, County Surveyor
SUBJECT: Gateway Commons Subdivision Final Map, Tract No. ESD20-00331

ACTIONS REQUESTED

1. Authorize the Chair to sign the Gateway Commons Subdivision Final Map and Subdivision Improvement Agreement and approve the recordation of the Final Map and the Agreement.
2. Find the action exempt from CEQA pursuant to CEQA Guidelines sections 15061(b)(3) and 15378(b) on the grounds that requested action is an administrative activity.

BACKGROUND

The Gateway Commons Subdivision is located on the south side of Gateway Court, approximately 280-feet east of Plaza Way in North Auburn (Attachment A). The Gateway Commons project was approved to create 18 residential lots of varying sizes, eight of which are approved for secondary dwelling units, creating up to 26 residential units total; the subdivision includes a common area private road lot, a common area landscape lot, and an open space common area lot, on 2.6 acres (Attachment B).

The improvements proposed to be constructed with this subdivision consist of a private court, private drainage and utility infrastructure, public sewer, survey monuments, and accessory items. Common Area lots, including Gateway Court, will be owned, and maintained by the property owner's association. A Subdivision Improvement Agreement has been prepared and security sufficient to cover labor and materials and faithful performance for the public improvements has been posted with the County (Attachment C).

ENVIRONMENTAL IMPACT

The Mitigated Negative Declaration was adopted by the Planning Commission on April 9, 2020. Mitigation measures have been addressed by the Conditions of Approval for this subdivision. This action is also exempt from CEQA pursuant to CEQA Guidelines sections 15061(b)(3) and 15378(b) on the grounds that requested action is an administrative activity.

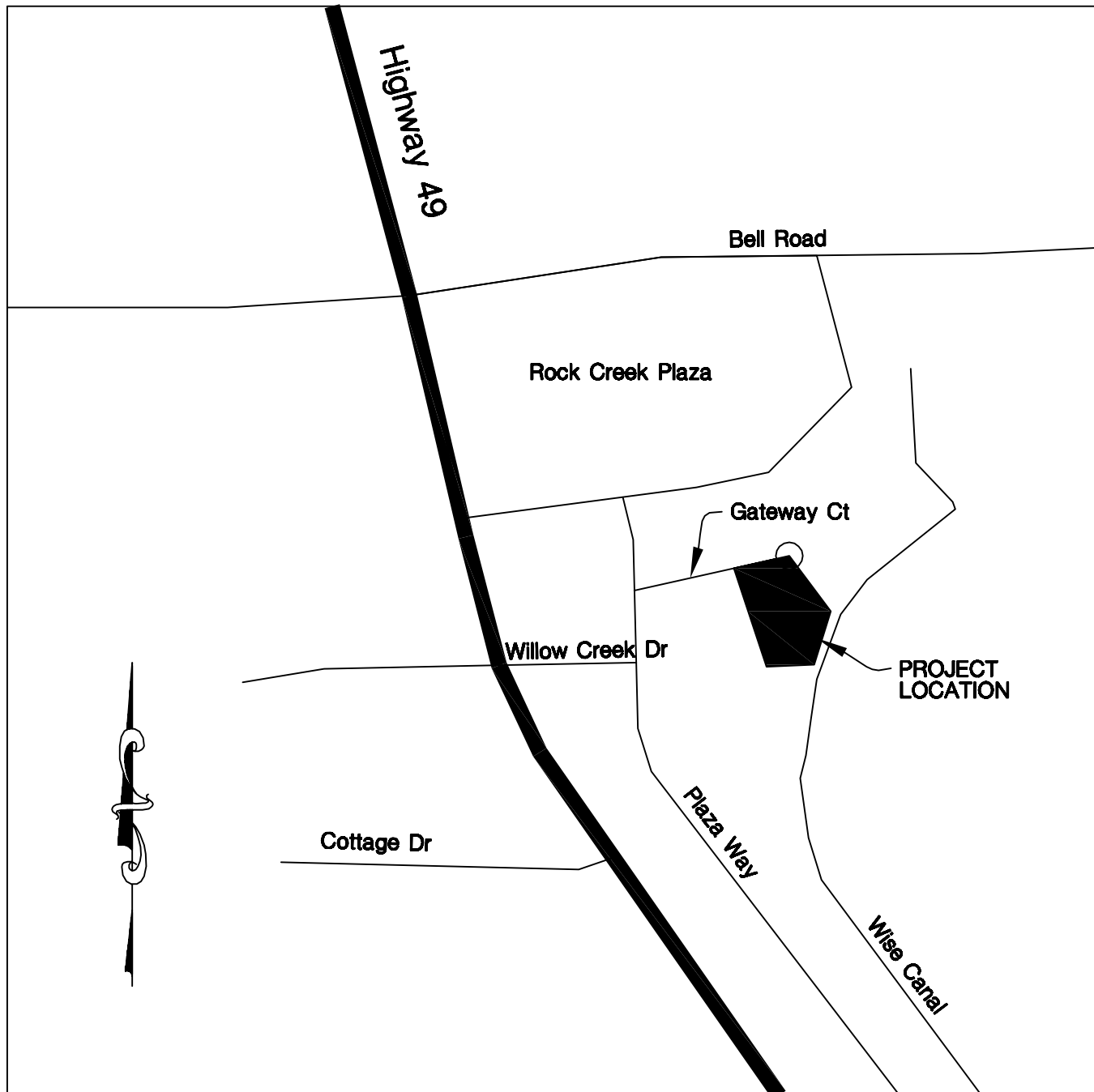
FISCAL IMPACT

The action requested with this item has no fiscal impact.

ATTACHMENTS

Attachment A: Vicinity Map
Attachment B: Map of Subdivision
Attachment C: Subdivision Improvement Agreement
Exhibit 1: Additional Requirements

Attachment A
GATEWAY COMMONS SUBDIVISION
PLACER COUNTY, CALIFORNIA
APN: 052-043-010
OCTOBER 2022



VICINITY MAP
NTS

Greg Cook, RCE
PO Box 18442
S. Lake Tahoe, CA 96151
(530) 544-7774

Attachment B
GATEWAY COMMONS SUBDIVISION
PLACER COUNTY, CALIFORNIA
APN: 052-043-010
OCTOBER 2022

APN 052-043-007

Gateway Court

SITE MAP
1"=50'

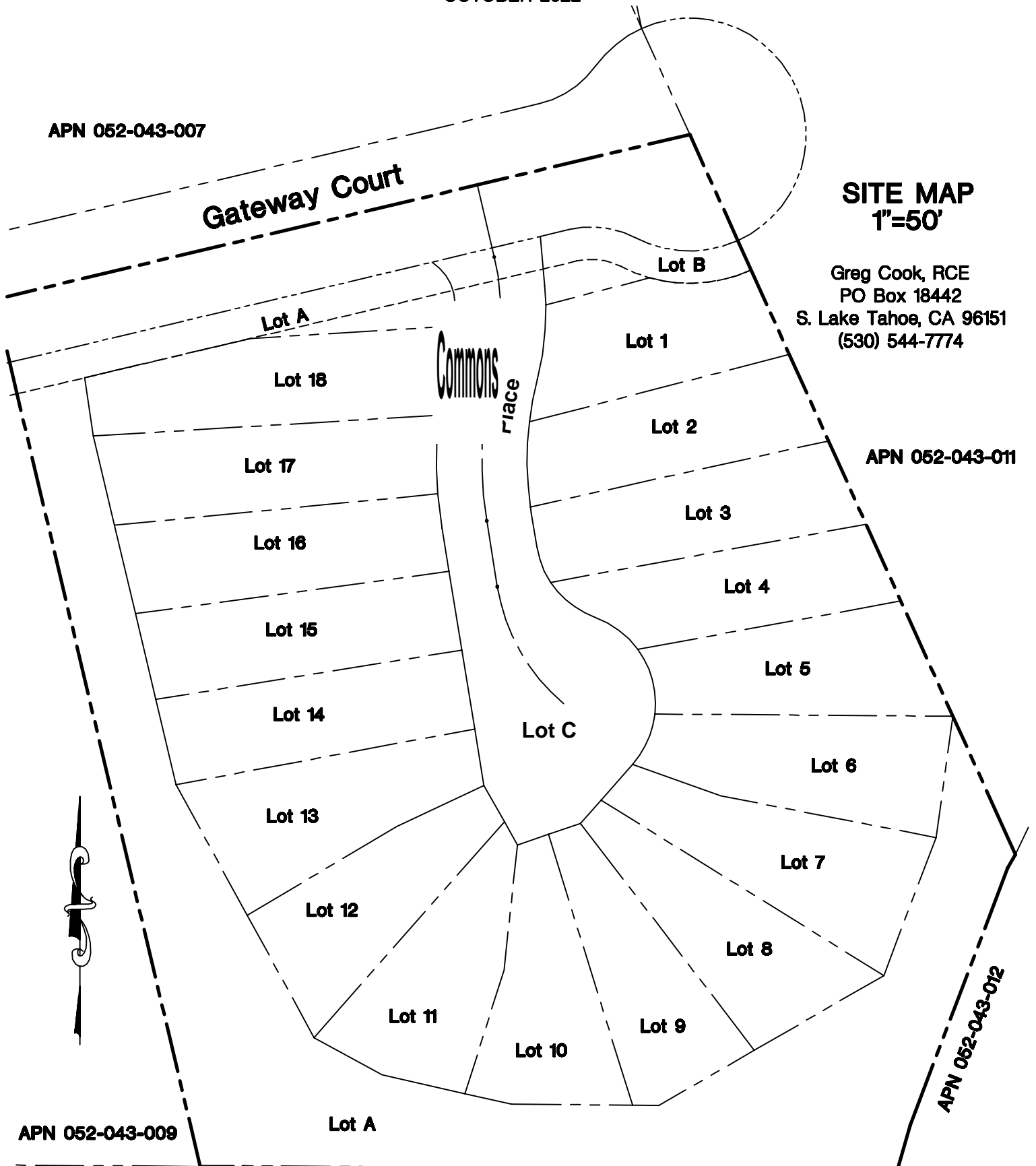
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PO Box 18442
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(530) 544-7774

APN 052-043-011

APN 052-043-012

APN 052-071-008

APN 052-043-009



Recording Requested by
and Return to:

Placer County
Community Development Resource Agency
Engineering and Surveying Division
3091 County Center Drive, Suite 120
Auburn, California 95603
Attn: Benjamin J. Bardakjian

Subdivision Name: Gateway Commons Subdivision
Subdivision No. PLN19-00138
Recorded at: Book ____ of Maps, at Page ____,
Placer County Records.
Tract No.: ESD20-00331
Subdivider: Gateway Court, LLC
Effective Date: _____

SUBDIVISION IMPROVEMENT AGREEMENT

This Subdivision Improvement Agreement ("Agreement") is entered into by and between the County of Placer, hereinafter called "County," and Gateway Court, LLC A California Limited Liability Company, hereinafter called "Subdivider," on the ____ day of _____, 20____.

RECITALS

1. Subdivider has received approval from County of a tentative subdivision map commonly known as Gateway Commons Subdivision ("the Subdivision"). A copy of the Subdivision is on file with the Placer County Community Development Resource Agency and is incorporated by reference herein.
2. Subdivider wishes to have filed for record a final subdivision map, ("the Map"), in substantial conformity with the approved tentative map. A copy of the Map is on file with the Placer County Community Development Resource Agency and is incorporated by reference herein.
3. County has approved the Map, subject to the execution of this Agreement.
4. Subdivider is willing to execute this Agreement as a condition precedent to the recording of the Map.
5. The authority for this Agreement is set forth in the Subdivision Map Act ("the Map Act") (Government Code section 66410 et seq.)

AGREEMENT

6. **Improvements.** Subdivider agrees to complete all the works of improvement ("the Improvements") required for the Map as shown on the final improvement plans for ESD20-00194 Gateway Commons Subdivision submitted to, approved by, and filed with the Community Development Resource Agency, in accordance with the requirements of the Map Act, Title 16, the Standard Specifications of County improvement plans, and such other requirements as are included herein. Subdivider shall be responsible for construction of, and all costs associated with the installation of all utilities. Such work will be completed within _____ months, (not to exceed 36), of the effective date of this Agreement.

7. **Additional Requirements.** Subdivider further agrees to perform all additional work as specified in Exhibit 1 attached hereto and in the conditions of approval of the Subdivision incorporated herein by reference.

8. **Acceptance of Improvements upon Completion.** Upon satisfactory completion of the Improvements in accordance with the approved improvement plans, the Standard Specifications and the conditions of approval of the Subdivision, County agrees to accept the Improvements as complete, subject to the provisions of Paragraph 10 hereof.

9. **Notice Regarding Construction.** Subdivider shall notify the Community Development Resource Agency 48 hours prior to commencement of construction of the Improvements.

10. **Warranty.** Subdivider agrees to remedy any defects in the Improvements to be owned or maintained by Placer County or other public agency or utility ("the Public Improvements") arising from faulty or defective design or construction of the Public Improvements occurring within twelve (12) months after acceptance thereof has been given in writing by the Board of Supervisors.

11. **Indemnity and Hold Harmless.**

A. The Subdivider hereby agrees to protect, defend, indemnify, and hold County free and harmless from any and all losses, claims, liens, demands, and causes of action of every kind and character including, but not limited to, the amounts of judgments, penalties, interest, court costs, legal fees, and all other expenses incurred by County arising in favor of any party, including claims, liens, debts, personal injuries, death, or damages to property (including employees or property of the County) and without limitation by enumeration, all other claims or demands of every character occurring or in any way incident to, in connection with or arising directly or indirectly out of, this Agreement. Subdivider agrees to investigate, handle, respond to, provide defense for, and defend any such claims, demand, or suit at the sole expense of the Subdivider. Subdivider also agrees to bear all other costs and expenses related thereto, even if the claim or claims alleged are groundless, false, or fraudulent. This provision is not intended to create any cause of action in favor of any third party against Subdivider or the County or to enlarge in any way the Subdivider's liability but is intended solely to provide for indemnification of County from liability for damages or injuries to third persons or property arising from Subdivider's performance pursuant to this contract or agreement.

As used above, the term County means Placer County or its officers, agents, employees, and volunteers.

B. Subdivider agrees to identify all existing utilities on the Plans and Specifications, and pay all costs and expenses for relocation of utilities, whether shown on such Plans and Specifications or not, and to defend and hold harmless County from any claims arising out of failure to show or relocate such utilities.

C. It is mutually understood that Subdivider will bear the full responsibility for losses incurred by destruction or damage to the Improvements, from any cause whatsoever, and shall bear full responsibility for costs incurred or reasonably necessary, until the Improvements are accepted by the County or other appropriate public agency.

12. **Delay.** If the construction of the Improvements is delayed without fault of Subdivider, the time for completion thereof may be extended by the Director of the Community Development Resource Agency for such period of time as County may deem reasonable.

13. **Security.** Subdivider shall furnish to County security to ensure the faithful performance of all duties and obligations of Subdivider herein contained in accordance with Government Code Section 66499 and Placer County Code Article 16.16.050. Such improvement security shall be in a form acceptable to the County Counsel. If bonds are submitted, Subdivider must provide documentation, in a form acceptable to the County Counsel, that the surety is duly admitted surety authorized to conduct business in the State of California. Such security shall be in the following amounts for the following purposes:

A. **Faithful Performance:** One hundred percent (100%) of the estimated cost of the Public Improvements securing performance of this Agreement, which estimated cost is in the amount of: Four Hundred Twenty Thousand Six Hundred Fourteen dollars (\$420,614.00).

B. **Labor and Materials:** One hundred percent (100%) of the estimated cost of the Public Improvements, as set forth in Paragraph A immediately preceding, securing payment to the contractor of the Public Improvements, to its subcontractors, and to persons furnishing labor, materials, or equipment to them.

For reference: The cost to complete the Improvements is estimated to be \$1,100,267.00 and includes the Public Improvements, estimated to cost \$420,614.00.

14. **Irrevocability of Security.** The improvement security furnished pursuant to Paragraph 13 shall be irrevocable, shall not be limited as to time (except as to the 12 month period specified in Paragraph 10), and shall provide that it shall be released, in whole or in part, only upon the written approval of the Director of the Community Development Resource Agency.

15. **Legal Jurisdiction.** This contract is subject to the laws and jurisdiction of the State of California. In the event that any court action should be brought in conjunction

with this Contract it shall be subject to the interpretation under the laws of the State of California and any legal proceedings shall be brought under the jurisdiction of the Superior Court of the County of Placer, State of California. Each party waives any federal court removal and/or original jurisdiction rights it may have.

16. **Release of Remaining Security.** At the conclusion of the construction of the Improvements, and upon written acceptance of them by the Board of Supervisors and approval of a Notice of Completion, the Director of the Community Development Resource Agency shall authorize the release of the security provided pursuant to Paragraph 13 and as provided by Government Code Section 66499.7. The Director of the Community Development Resource Agency is also authorized to allow a partial release of security at their discretion upon partial construction of the Improvements in accordance with Government Code Section 66499.7. Any release of security pursuant to this section shall not include security retained for the warranty period in Paragraph 10, unless expressly authorized in writing the Director of the Community Development Resource Agency.

17. **Insurance.** Subdivider shall file with County concurrently herewith a Certificate of Insurance, in companies acceptable to County, with a Best's Rating of no less than A-:VII showing.

A. **WORKER'S COMPENSATION AND EMPLOYERS LIABILITY INSURANCE:**

Subdivider represents they have no employees, and therefore, are not required to have Worker's Compensation coverage.

Subdivider agrees they have no rights, entitlements or claims against County for any type for employment benefits or worker's compensation or other programs afforded to County Employees

Subdivider shall require all Subcontractors to maintain adequate Workers' Compensation insurance. Certificates of Workers' Compensation shall be filed forthwith with the County upon demand.

B. **GENERAL LIABILITY INSURANCE:**

a. Comprehensive General Liability or Commercial General Liability insurance covering all operations by or on behalf of Subdivider, providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below and including coverage for:

(1) Contractual liability insuring the obligations assumed by Subdivider in this Agreement.

b. One of the following forms is required:

- (1) Comprehensive General Liability;
- (2) Commercial General Liability (Occurrence); or
- (3) Commercial General Liability (Claims Made).

- c. If SUBDIVIDER carries a Comprehensive General Liability policy, the limits of liability shall not be less than a Combined Single Limit for bodily injury, property damage, and Personal Injury Liability of:

→One million dollars (\$1,000,000) each occurrence

→Two million dollars (\$2,000,000) aggregate

- d. If SUBDIVIDER carries a Commercial General Liability (Occurrence) policy:

- (1) The limits of liability shall not be less than:

→One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)

→One million dollars (\$1,000,000) for Products-Completed Operations

→Two million dollars (\$2,000,000) General Aggregate

- (2) If the policy does not have an endorsement providing that the General Aggregate Limit applies separately, or if defense costs are included in the aggregate limits, then the required aggregate limits shall be two million dollars (\$2,000,000).

- e. Special Claims Made Policy Form Provisions:

Subdivider shall not provide a Commercial General Liability (Claims Made) policy without the express prior written consent of County, which consent, if given, shall be subject to the following conditions:

- (1) The limits of liability shall not be less than:

→One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)

→One million dollars (\$1,000,000) aggregate for Products Completed Operations

→Two million dollars (\$2,000,000) General Aggregate

- (2) The insurance coverage provided by Subdivider shall contain language providing coverage up to one (1) year following the completion of the contract in order to provide insurance coverage for the hold harmless provisions herein if the policy is a claims-made policy.

Conformity of Coverages - If more than one policy is used to meet the required coverages, such as a separate umbrella policy, such policies shall be consistent with all other applicable policies used to meet these minimum requirements. For

example, all policies shall be Occurrence Liability policies or all shall be Claims Made Liability policies, if approved by the County as noted above. In no cases shall the types of policies be different.

C. ENDORSEMENTS:

Each Comprehensive or Commercial General Liability policy shall be endorsed with the following specific language:

- a. "The County of Placer, its officers, agents, employees, and volunteers are to be covered as insured for all liability arising out of the operations by or on behalf of the named insured in the performance of this Agreement."
- b. "The insurance provided by the Subdivider, including any excess liability or umbrella form coverage, is primary coverage to the County of Placer with respect to any insurance or self-insurance programs maintained by the County of Placer and no insurance held or owned by the County of Placer shall be called upon to contribute to a loss."
- c. "This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the County of Placer"

D. AUTOMOBILE LIABILITY INSURANCE:

Subdivider represents that they have no corporate owned automobiles and therefore, are not required to carry Automobile Liability Insurance.

E. ADDITIONAL REQUIREMENTS:

Premium Payments - The insurance companies shall have no recourse against the County and funding agencies, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by a mutual insurance company.

Policy Deductibles - The Subdivider shall be responsible for all deductibles in all of the Subdivider's insurance policies. The maximum amount of allowable deductible for insurance coverage required herein shall be \$25,000.

Subdivider's Obligations – Subdivider's indemnity and other obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this agreement.

Verification of Coverage – Subdivider shall furnish the County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the County before work commences. However, failure to obtain the required documents prior to the work

beginning shall not waive the Subdivider's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Material Breach - Failure of the Subdivider to maintain the insurance required by this agreement, or to comply with any of the requirements of this section, shall constitute a material breach of the entire agreement.

18. **Monuments.** Subdivider agrees to install such survey monuments as depicted on the Map filed as a condition of this approval.

19. **Failure of Performance.** In the event Subdivider fails to perform one or more of the conditions herein, County shall have recourse to the security given to guarantee the performance of such acts. County shall have recourse against so much of the security as is necessary to discharge the responsibility of Subdivider hereunder. County shall have recourse against Subdivider for any and all amounts necessary to complete the obligations of Subdivider in the event the security therefore is insufficient to pay such amounts. All administrative costs incurred by the County, in addition to the costs of the Improvements, shall be a proper charge against the security and/or Subdivider.

20. **Attorney's Fees.** In the event it becomes necessary for either party to bring an action with respect to enforcement of the provisions of this Agreement, or the security therefore, the prevailing party in such action shall be awarded a reasonable attorney's fee, as may be determined by the court.

21. **Agreement Binding on Successors, Etc.** This Agreement shall be binding upon all the heirs, successors, and assigns of either party, and the same shall be recorded in the office of the Recorder of Placer County upon its execution, and shall be a covenant running with the land and equitable servitude upon the parcel or parcels of real property subdivided by the Map.

22. **Subdivision Map Act Controlling.** To the extent any provision of this Agreement conflicts with any provision of the Map Act, the applicable provision of such Act shall control, and no action taken pursuant to this Agreement which conflicts with any provision of the Map Act shall relieve the person taking such action from compliance with the provisions of the Map Act.

23. **Other Provisions: NONE**

WHEREFORE, the parties hereto have executed this Agreement on the day and in the year first above written.

Dated: _____

COUNTY OF PLACER

By: _____

(Signature)

CHAIR OF THE PLACER COUNTY
BOARD OF SUPERVISORS

(Printed Name)

Dated: _____

SUBDIVIDER

Gateway Court, LLC

A California Limited Liability Company

By: _____

Jan T. Haldeman, Manager

(Printed Name and title)

APPROVED AS TO FORM

PLACER COUNTY COUNSEL'S OFFICE

Dated: _____

By: _____

COUNTY COUNSEL

ADDITIONAL REQUIREMENTS - EXHIBIT 1

NONE

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of _____)

County of _____)

On this _____ day of _____, 20____, before me

(Notary Name and Title) NOTARY PUBLIC,

personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal (SEAL)

Notary Public in and for said county and state

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of _____)

County of _____

On this _____ day of _____, 20____, before me

(Notary Name and Title) NOTARY PUBLIC,

personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal (SEAL)

Notary Public in and for said county and state

